

REMARKS

Reconsideration of this application is requested.

The claims now pending are prior claims 1-4, 11-29, 36-57 and new claims 58 and 59. Of the new claims, claim 58 depends from claim 1 and is specific to the applicants elected species of perfume, inner coating comprising polyvinyl pyrrolidone and outer coating of polyvinyl alcohol. New claim 59 also depends from claim 1 and combines preferred features deleted from claims 4, 11, 12, 25, 26 and claim 27.

The applicants confirm their earlier elections of species as set out by the Examiner at page 4, 1st full ¶ of the action. It is noted in this regard that the Examiner has correctly indicated the applicants' species elections at page 4, 1st full ¶ of the action. However, at page 2 of the action where the Examiner lists the species for inner coating (¶ 2) and outer coating (¶ 3), the Examiner seems to have interchanged the polymer groupings as the species groupings in these ¶s should be reversed.

New claims 58 and 59 are readable on the elected species along with all the other claims now in the case. Additionally, claims 58 and 59 are thought to be allowable for reasons noted below relative to applicants' other claims as well as for the novelty and unobviousness in the combination of features called for in claims 58 and 59.

The claims have been amended to obviate the basis for the Examiner's Section 112, 2nd ¶ rejection and to otherwise improve form. The changes in the claims, and the manner in which they relate to the Examiner's objections, are thought to be self-evident and, therefore, do not seem to warrant detailed comment. It is noted, however, that the recitation of broad and narrow features within single claims has been eliminated. The Examiner is requested to reconsider the Section 112, 2nd ¶ rejection in view of the indicated changes in the claims.

Applicants' claims have been amended to emphasize novel and patentable features of the invention. Thus, independent claims 1 and 28 have been amended to specify that the encapsulated material is a perfume (as in original claim 5). Additionally, these claims and claim 52 (i.e. the applicants' independent claims) have been amended to require a coating on the inner surface of the shell wall.

The amendment of applicants' claims 1 and 28 to include the perfume of claim 5 as the encapsulated material obviates the basis for the Examiner's Section 102(b) rejection of claims 1, 2, 18-22, 28 and 43-47 based on Leiberich et al. as

claim 5 was not included in this rejection. Clearly, the applicants' claims, as amended, distinguish over Leiberich et al. Accordingly, reconsideration and withdrawal of the Section 102(b) rejection based on Leiberich et al. as set out in Section 1 of the action, beginning at page 6 of the action, are requested.

The amendment of claims 1 and 28 to include the perfume limitation of claim 5 should also obviate the Examiner's Section 102(b) rejection of the claims based on Nastke et al. as set forth in Section 3 of the action as claim 5 was not included in this rejection. It is noted, in this regard, that claim 52, which specifies that the encapsulated material is perfume, was included in the rejection based on Nastke et al. However, with respect, it is submitted that Nastke et al. do not disclose encapsulated perfume as the Examiner has evidently recognized. Accordingly, withdrawal of the Section 102(c) rejection based on Nastke et al, as set out in Section 3 of the action, is requested.

This leaves for consideration (1) the Examiner's Section 102(b) rejection of claims 1-5, 13, 17, 21, 22, 27-30, 38, 42, 46, 47 and 51 as anticipated by Behan et al. (U.S. Patent 5,500,223); (2) the Section 102(b) rejection of claims 1-5, 11-15, 17, 21-24, 26-30, 36-40, 42 and 46-56 as anticipated by Ness et al. (U.S. 6,194,375) and (3) the Section 103(a) rejection of claims 1-5, 11-20, 25, 27-30, 36-45, 50, 51 and 54-57 as obvious from Ness PCT WO 02/074430 in view of Nastke et al. These rejections are set out in Section 2, page 7; Section 4, page 8 and Section 1, page 9 of the action. The Examiner is requested to reconsider each of these rejections (1), (2) and (3) above, as the applicants' invention is not disclosed by the Behan et al. or Ness et al. references and not obvious from the combination of the Ness (WO) publication considered with Nastke et al.

In brief, none of the Examiner's references discloses each and every feature of the applicants' independent claims, namely, claims 1, 28 and 52 as presented. Hence, rejection under Section 102(b) for anticipation is not appropriate. Furthermore, the references relied on by the Examiner under Section 103(a), i.e. the Ness WO publication and Nastke et al. do not suggest the applicants' invention as defined in the present claims. This conclusion is also true with respect to all of the Examiner's other references.

The applicants' invention as claimed relates to the particular problem of improving stability of encapsulates containing perfumes, particularly when present in solvent and/or surfactant-containing consumer products. As mentioned in the 3rd ¶ of the applicants' specification, encapsulated perfume can tend to leach out of the

capsules into the product over time. To deal with this problem, the applicants provide the inner surface of the shell wall with a coating, preferably a coating as defined in claims 19 and 20. There is nothing in the Examiner's references disclosing or suggesting a perfume encapsulate with a polymer coating on the inner surface of the capsule wall.

Ness et al. relates to the very different problem of improving the deposition of encapsulates during a washing process. The reference makes no mention of coating at all in relation to encapsulate stability and certainly does not suggest a coating on the inner surface of the encapsulating shell wall as the applicants' amended claims require. The same is true for Behan.

The Examiner cites Nastke et al. as showing an inner coating of wax on a capsule wall, referring to page 9, claim 1 of the reference. However, Nastke et al. are not concerned with the provision of perfume encapsulates. The requirements for such encapsulates are different from the microparticles of biologically active compounds of concern to Nastke et al.


Nastke et al. provide spherical microparticles which contain biologically active compounds and which are provided at the inner capsule wall with an additional layer deposited around the biologically active compound, notably biologically active agrochemicals. The reference is concerned with the specific problems presented by encapsulated agrochemicals and is not in any way concerned with encapsulated perfume materials. The latter raises different issues in terms of stability and the like. Thus, in short, Nastke et al. provide specific solutions to problems and situations which are different from those of concern to the applicants' encapsulated perfume. Accordingly, it is submitted that there is no real basis for combining Nastke et al. with Ness et al. or otherwise to reject the applicants' claims as amended.

Thus, in summary, it is submitted that the applicants' claims, calling for encapsulation of perfume with a coating on the inner surface of the encapsulating shell are not disclosed by Behan et al. or Ness et al. Hence, the Section 102(b) rejection of applicants' claims, based on these references, should be withdrawn. Furthermore, none of the references relied on by the Examiner, including Nastke et al., discloses or suggests a perfume encapsulated with a stabilizing coating on the inner surface of the capsule. Thus, the Examiner's Section 103(a) rejection should also be withdrawn and all of the applicants' claims, including new claims 58 and 59, allowed.

Favorable reconsideration with allowance is requested.

Respectfully submitted,

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